

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARLEY D. TYNDALL,

Defendant.

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8:06CR143

ORDER

A telephonic hearing was held on November 22, 2006 on defendant's Motion [29] to continue trial. The court finds that a continuance is necessary to allow the defendant to conduct independent scientific DNA testing. For good cause shown,

IT IS ORDERED that defendant's Motion [29] is granted, as follows:

1. The trial of this matter is continued to **January 23, 2007**.

2. In accordance with 18 U.S.C. § 3161(h), I find that the ends of justice will be served by granting defendant's request and outweigh the best interest of the public and the defendant in a speedy trial. The additional time arising as a result of the granting of the motion, i.e., the time between December 12, 2006 and January 23, 2007, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act, 18 U.S.C. § 3161 because failure to grant a continuance would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. 3161(h)(8)(A) & (B)(iv).

DATED November 22, 2006.

BY THE COURT:

s/ F.A. Gossett

United States Magistrate Judge